

Notice of Allowability

Application No.

09/594,983

Applicant(s)

OLSON ET AL.

Examiner

Bo Peng

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/17/06.
2. ☒ The allowed claim(s) is/are 98-104 and 118-134.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>3/17/06</u> |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>4/16/04</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Art Unit: 1648

1. Applicant's amendment, filed on December 19, 2005, is acknowledged. Applicant's supplemental amendment, filed on March 20, 2006, is also acknowledged. The supplemental amendment filed after a final rejection is entered because it materially reduces and/or simplifies the issues for appeal as well as obviates the previous rejection. See below.

2. Applicant amended claims 100-104 and 118-134. Claims 98-104 and 118-134 are pending and allowable.

3. The following is an examiner's statement of reasons for allowance:

(1) Rejection of claims 98, 102-104 and 129-134 under 35 U. S. C. 112, second paragraph, is withdrawn in view of the amendment to the claims.

(2) Rejection of claims 98 and 102-104 under 35 U. S. C. 112, first paragraph, is withdrawn in view of the amendment to the claims and Applicant's argument.

(3) Provisional rejection of claims 98-104 and 117-122 under the judicially created doctrine of obviousness-type double patenting over claims 99-105 of copending Application 10/763,545 is withdrawn in view of the fact that the instant application is filed earlier than 10/763,545.

(4) Rejection of claims 100, 102, 103, 117, 123 and 129 under 35 U. S. C. 102(a), is withdrawn in view of the amendment to the claims and Applicant's argument.

(5) Rejection of claims 104, 119, 120, 125, 126, 131 and 132 under 35 U. S. C. 103(a), is withdrawn in view of the amendment to the claims and Applicant's argument.

Art Unit: 1648

(6) Claims 98-104 and 118-34 are free of prior art of record. The Examiner is not aware of any suggestion in the prior art of record that would point the artisan to the claimed CCR5 antibody PA14 and hybridoma cell line PA14. Accordingly, claims 98-104 and 118-134 are allowable.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bo Peng, Ph.D., whose telephone number is 571-272-5542. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 571-272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Bo Peng, Ph.D.



JEFFREY STUCKER
PRIMARY EXAMINER